



Federal Election Commission
Washington, DC 20463

March 3, 2016

Michael E. Toner, Esq.
Wiley Rein
1776 K Street NW
Washington, DC 20006

Re: ADR 760 & ADR 764
Dewhurst for Texas and Dr. Carlos R. Hamilton, Jr., Treasurer

Dear Mr. Toner:

Enclosed is the signed copy of the agreement resolving the *sua sponte* submission of July 31, 2013 filed with the Federal Election Commission (FEC/Commission) by Dewhurst for Texas and Dr. Carlos R. Hamilton, Jr., Treasurer (Respondents), as well as ADR 764. The consolidated agreement for ADR 764 (P-MUR 561) and ADR 764 (RR 13L-36) was approved by the Commission on March 2, 2016 – the effective date of the agreement.

Note the specific time frames for compliance in paragraph 8 of the agreement. Please forward to this office, a statement confirming Respondent's compliance with the terms listed in paragraph 8 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 8 and contain the ADR caption and case number.

As you are aware, the settlement agreement will be made part of the record that is released to the public. The Commission will also place on the record copies of the *sua sponte* submission correspondence exchanged between your office and this office prior to our entry into settlement negotiations and reports prepared for the Commission by this office to assist in its consideration of this matter. The Commission is obliged by Federal statute to place on the public record documents in closed enforcement and alternative dispute resolution cases; accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

This agreement resolves the issues involved in the *sua sponte* submission, as well as the RAD referral. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,

Lynn M. Fraser, Director
Alternative Dispute Resolution Office
202-694-1665

Enclosure: Agreement



Federal Election Commission
Washington, DC 20463

Case Number: ADR 760
Source: P-MUR 561
Case Number: ADR 764
Source: RR 13L-36
Case Name: Dewhurst for Texas

NEGOTIATED SETTLEMENT

This matter was initiated by *sua sponte* submission filed by Respondents, as well as a matter initiated by the Federal Election Commission (Commission) pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Following review of these matters, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, (FECA) and resolve this matter, the Commission entered into negotiations with Michael E. Toner, Esq. and Brandis Zehr, Esq., representing Dewhurst for Texas and Dr. Carlos R. Hamilton, Jr., in his official capacity as Treasurer (the Committee or Respondents). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

Negotiations between the Commission and Respondents addressed the issues raised in both the submission and the referral. The parties agree to resolve the matter according to the following terms:

1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 52 U.S.C. § 30109.
2. Respondents voluntarily enter into this agreement with the Commission.
3. In ADR 760, Respondents filed a *sua sponte* submission indicating that Kenneth A. "Buddy" Barfield, while serving as Campaign Manager and Assistant Treasurer, misappropriated approximately \$1.1 million during the 2011-2012 election cycle. The misappropriation of these funds resulted in inaccurate reporting to the Commission. The Committee filed amended reports to correct the record.
4. In ADR 764, the Reports Analysis Division (RAD) referred Respondents for the unauthorized use of campaign funds and the failure to refund, redesignate, or reattribute excessive and prohibited 2012 Primary, Runoff, and General Election contributions totaling \$140,750 within the permissible timeframe.

5. Treasurers of political committees are required to report all financial activity, including all receipts, disbursements, and debts, pursuant to the FECA. 52 U.S.C. §§ 30104(b)(2), (4), and (8), 11 C.F.R. §§ 104.3(a), (b), and (d).

6. Respondents contend that they had internal controls in place prior to discovering the embezzlement by Mr. Barfield such as limited check signing authority, disbursements requiring written approval, and regular reconciliation of bank statements and FEC reports. Upon discovering the financial irregularities, an internal audit and reconciliation was conducted, and the Committee implemented more stringent internal controls. The Committee filed amended reports to correct the record and wishes to terminate its political committee status.

7. Respondents acknowledge that the Committee inadvertently accepted a small number of excessive, prohibited and other impermissible contributions for the 2012 Primary, Runoff, and General Elections. Respondents worked with RAD to correct the record to reflect those contributions refunded, redesignated, or reattributed.

8. As the Committee wishes to terminate its political committee status, and in an effort to resolve these matters, Respondents will file a termination report with the Commission within twelve (12) months of the effective date of this agreement. Should Respondents need additional time to pay the Committee's debts, the Alternative Dispute Resolution Office may extend this deadline an additional ninety (90) days. Upon the Commission's approval of the Committee's termination, Respondents will promptly certify the closure of the Committee's account. The Committee will

continue reporting until such time as the termination has been approved.

9. Respondents agree that all information provided to resolve this matter is true and accurate to the best of their knowledge and that they sign this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.

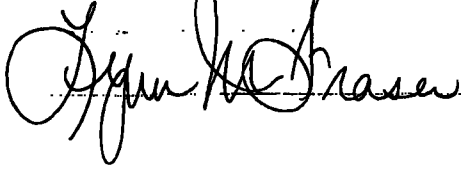
10. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.

11. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of this agreement as set out in paragraph 7 above, and shall certify compliance with the above settlement terms in writing to the Alternative Dispute Resolution Office on or before the date each term becomes due.

12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 760 (P-MUR 651) and ADR 764 (RR 13L-36), and resolves those issues identified in paragraph 3 and 4 above. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.


FOR THE COMMISSION:

Lynn M. Fraser, Director
Alternative Dispute Resolution Office



3/2/2016
Date Signed

FOR THE RESPONDENTS:



Michael E. Toner, Esq.
Representing Dewhurst for Texas and
Dr. Carlos R. Hamilton, Jr., Treasurer

9/11/15
Date Signed